

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

AERC.Com, Inc.  
1475 Crocker Avenue  
Hayward, CA 94544

ID No. CUW 000 000 055

Respondent.

Docket HWCA20081657

CONSENT ORDER

Health and Safety Code  
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and AERC.Com, Inc. (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent generates, handles, treats and stores universal waste at the following site: 1475 Crocker Avenue, Hayward, California 94544.

1.3. Inspection. The Department inspected the Site on January 24 and 28, 2008.

1.4. Authorization Status. Respondent is authorized to remove cathode ray tubes (CRTs) from CRT devices, and to treat or recycle CRTs by conducting yoke removal, pursuant to California Code of Regulations (Cal. Code Regs.), Title 22, section 66273.83(b) and (c). Respondent is authorized to recycle universal waste electronic devices by reclaiming components from universal waste electronic devices through manual disassembly, dismantling or otherwise manually segregating components from

those devices, pursuant to Cal. Code Regs., Title 22, section 66273.33(d)(3)(B).

1.5. Jurisdiction. Health and Safety Code, section 25187, authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.6. Full Settlement. This Order shall constitute full settlement of the violations alleged below. The Parties, and each of them, agree that this Order, and all of the terms contained herein, are fair, reasonable, and in the public interest. By agreeing to this Order, the Department does not waive any right to take other enforcement actions except as specifically provided in this Order.

1.7. Hearing. Respondent waives any and all rights to a hearing in this matter.

1.8. Admissions. Respondent does not admit the violations alleged below, except as follows: Respondent admits the facts alleged below for the purposes of any subsequent action brought pursuant to the Hazardous Waste Control Law, Health and Safety Code section 25100 et seq., within 5 years of the date the violations occurred.

## 2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violations:

2.1.1. The Respondent violated California Code of Regulations (Cal. Code Regs.), Title 22, section 66273.83(b)(1)(C), (c)(1), and (d)(1)(A)(1), in that on or about January 24, 2008, Respondent failed to ensure that persons removing CRTs are thoroughly familiar with the techniques and safety

precautions required to safely remove CRTs (e.g., releasing the vacuum, discharging the tube), failed to remove yokes without breaking CRT glass, and failed to submit a notification to the Department no later than 30 days prior to treating CRT material.

Respondent's employees were breaking CRT glass by breaking off the electron guns in order to release the vacuum prior to yoke removal, rather than releasing the vacuum without breaking the glass. In addition, CRTs were not placed into boxes in such a way as to minimize additional glass breakage. Breaking off electron guns is a treatment process for which Respondent had not notified the Department at least 30 days prior to performing.

2.1.2. Respondent violated Cal. Code Regs., Title 22, sections 66273.83(c)(10) and 66273.86(a),(b) and (d), in that on or about January 24, 2008, Respondent: a) failed to ensure that all persons that perform treatment or recycling are thoroughly familiar with the associated hazards, and have access to the proper procedures necessary to safely conduct the treatment and to comply with the requirements of this section; b) failed to demonstrate that all employees who handle or have responsibility for managing CRT material were informed of the proper handling and emergency procedures appropriate for the waste handled at the facility; c) failed to demonstrate that employees received the required initial training; and d) failed to maintain records of employee training received.

2.1.3. Respondent violated Cal. Code Regs., Title 22, section

66273.83(c)(3), in that on or about January 24, 2008, Respondent failed to maintain documentation of any air permit required.

2.1.4. Respondent violated Cal. Code Regs., Title 22, section 66273.84 in that on or about January 24, 2008, Respondent failed to properly label or clearly mark each container or pallet in or on which CRTs or CRT Devices are contained. Gaylord boxes of CRTs were not marked with the phrase: "Universal Waste-CRT(s)" or "UW-CRT(s)", and pallets of CRT devices were not marked with the phrase: "Universal Waste-CRT Device(s)" or "UW-CRT Device(s)".

2.1.5. Respondent violated Cal. Code Regs., Title 22, section 66273.34(d) in that on or about January 24, 2008, Respondent failed to properly label or mark each universal waste electronic device or container or pallet in or on which universal waste electronic devices are contained, including containers or pallets that also contain devices that are not waste, with one of the following phrases: "Universal Waste–Electronic Device(s)" or "UW-Electronic Device(s)". There were no labels with the correct phrasing on many containers and pallets of electronic devices, including boxes of laptop computers, laptop computer components, remote controls and telephones, and pallets of computer processing units (CPUs) and fax machines. **This was a repeat violation from the February 7, 2007 DTSC inspection.**

2.1.6. Respondent violated Cal. Code Regs., Title 22, section 66273.85(b) in that on or about January 24, 2008, Respondent failed to demonstrate the length of time that universal waste was accumulated from the

date it became a waste or was received, in that the accumulation date was missing from some containers and pallets of CRT devices and bare CRTs. Most containers of bare CRTs which had been consolidated were marked with the date the CRTs had been consolidated, rather than the date of the earliest received CRT in the container. Most of these containers and pallets also did not have tracking numbers as an alternate method of verifying the accumulation date. **This was a repeat violation from the February 7, 2007 DTSC inspection.**

2.1.7. Respondent violated Cal. Code Regs., Title 22, section 66273.35 (c) in that on or about January 24, 2008, Respondent failed to demonstrate the length of time that universal waste was accumulated from the date it became a waste or was received, in that the accumulation date was missing from some containers and pallets of universal waste electronic devices (UWEDs), including laptop computers, laptop computer components, remote controls, telephones and CPUs. These containers and pallets also did not have tracking numbers as an alternate method of verifying the accumulation date. **This was a repeat violation from the February 7, 2007 DTSC inspection.**

2.1.8. Respondent violated Cal. Code Regs., Title 22, section 66273.36, in that on or about January 24, 2008, Respondent failed to demonstrate that all employees who handle or have responsibility for managing universal waste were informed of the proper handling and emergency procedures appropriate for the waste handled at the facility.

2.1.9. Respondent violated Cal. Code Regs., Title 22, sections 66273.83(c)(4) and 66273.33(d)(2)(B), in that on or before February 1, 2008, Respondent failed to submit an annual report for the CRT material and universal waste electronic device material handled and treated in 2007. Respondent submitted the annual report to DTSC on March 7, 2008. **This was a repeat violation from the February 7, 2007 DTSC inspection.**

### 3. SCHEDULE FOR COMPLIANCE

3.1. Respondent shall comply with the following:

3.1.1. Respondent has corrected the violations set forth in sections 2.1.1. through 2.1.9.

3.1.2. Respondent shall make all payments at the time(s) and in accord with any other conditions set forth in Section 5 (Penalty) below.

### 4. OTHER PROVISIONS

4.1. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare or the environment.

4.2. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties and/or damages, as provided by Health and Safety Code, section 25188, and other applicable provisions of law.

4.3. Parties Bound. This Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

4.4. Integration. This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this Order.

## 5. PENALTY

5.1. Respondent shall pay the Department the total sum of \$15,000.00, of which \$15,000.00 is a penalty.

5.2. Payment of the total sum specified in paragraph 5.1 is due within 30 days from the effective date of this Order.

5.3. Respondent's check(s) shall be made payable to Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the caption of this case, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control  
Accounting Office  
1001 I Street, 21st floor  
P. O. Box 806  
Sacramento, California 95812-0806

A photocopy of the check(s) shall be sent to:

Maria Soria, Section Chief  
State Oversight and Enforcement Branch  
Department of Toxic Substances Control  
700 Heinz Avenue  
Berkeley, California 94710-2721

and

James J. Grace, Senior Staff Counsel  
Office of Legal Affairs  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826-3200

5.4. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code, section 25360.1, and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

#### 6. EFFECTIVE DATE

6.1. The effective date of this Order is the date it is signed by the Department.

Dated: December 16, 2008

Original signed by Donald Lees

Donald Lees, President  
Respondent

Dated: December 17, 2008

Original signed by Maria Soria

Maria Soria, Section Chief  
Enforcement and Emergency Response Program  
Department of Toxic Substances Control